

By: Dean

H.B. No. 3787

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the loss of benefits by and the payment of certain
3 employer contributions for certain retirees of the Teacher
4 Retirement System of Texas who resume service.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Sections 824.601(b-1) and (b-2), Government
7 Code, are amended to read as follows:

8 (b-1) Subsection (b) does not apply to a retiree under
9 Section 824.202 whose effective date of retirement is on or before
10 January 1, 2021 [~~2011~~].

11 (b-2) A retiree is considered to be employed by a Texas
12 public educational institution for purposes of Subsection (b) if
13 the retiree performs duties or provides services, other than any
14 online supplemental educational and support services provided by a
15 nonprofit entity, for or on behalf of the institution that an
16 employee of the institution would otherwise perform or provide and:

17 (1) the retiree waives, defers, or forgoes
18 compensation from the institution for the performance of the duties
19 or provision of the services at any time during the 12 consecutive
20 calendar months after the retiree's effective date of retirement,
21 notwithstanding any other law, including Sections 824.602(a)(1),
22 (a)(2), and (a)(4);

23 (2) the retiree performs the duties or provides the
24 services for or on behalf of the institution as an independent

1 contractor at any time during the 12 consecutive calendar months
2 after the retiree's effective date of retirement; or

3 (3) the retiree, as a volunteer without compensation,
4 performs the same duties or provides the same services for an
5 institution that the retiree performed or provided immediately
6 before retiring and the retiree has an agreement to perform those
7 duties or provide those services after the 12 consecutive calendar
8 months after the retiree's effective date of retirement.

9 SECTION 2. Section 824.602, Government Code, is amended by
10 amending Subsection (a) and adding Subsections (c), (d), and (d-1)
11 to read as follows:

12 (a) Subject to Subsections (c), (d), and (d-1) and Section
13 825.506, the retirement system may not, under Section 824.601,
14 withhold a monthly benefit payment if the retiree is employed in a
15 Texas public educational institution:

16 (1) as a substitute only with pay not more than the
17 daily rate of substitute pay established by the employer and, if the
18 retiree is a disability retiree, the employment has not exceeded a
19 total of 90 days in the school year;

20 (2) in a position, other than as a substitute, on no
21 more than a one-half time basis for the month;

22 (3) in one or more positions on as much as a full-time
23 basis, if the retiree has been separated from service with all Texas
24 public educational institutions for at least 12 full consecutive
25 months after the retiree's effective date of retirement; or

26 (4) in a position, other than as a substitute, on no
27 more than a one-half time basis for no more than 90 days in the

1 school year, if the retiree is a disability retiree.

2 (c) Subject to Section 825.506, with respect to a retiree
3 who is employed by a Texas public educational institution in excess
4 of a limitation on employment provided by Subsection (a), the
5 retirement system may not withhold a monthly benefit payment under
6 Section 824.601 and shall provide a written warning regarding the
7 consequences of further employment that exceeds those limitations.

8 (d) If the retirement system determines that a retiree,
9 after receipt of a warning under Subsection (c), is employed in a
10 manner that exceeds a limitation on employment provided by
11 Subsection (a), the system shall provide notice of that
12 determination to the retiree and require the retiree, in the manner
13 prescribed by the system, to:

14 (1) return to the system the prorated amount of the
15 monthly benefit payment received by the retiree that is
16 attributable to the period in which the retiree exceeded the
17 limitation provided by Subsection (a); or

18 (2) pay to the system the difference between the
19 actual hours or days for which the retiree was compensated and the
20 hours or days permitted under Subsection (a).

21 (d-1) If the retirement system determines that a retiree,
22 after receipt of a notice under Subsection (d), is employed in a
23 manner that exceeds a limitation on employment provided by
24 Subsection (a), the system may withhold a monthly benefit payment
25 under Section 824.601.

26 SECTION 3. Section 825.408(a), Government Code, is amended
27 to read as follows:

1 (a) An [~~Except as provided by Subsection (a-1), an~~] employer
2 that fails to remit, before the seventh day after the last day of a
3 month, all member and employer deposits and documentation of the
4 deposits required by this subchapter to be remitted by the employer
5 for the month shall pay to the retirement system, in addition to the
6 deposits, interest on the unpaid amounts at an annual rate
7 compounded monthly and a late fee in an amount determined by the
8 retirement system that is based on the size of the employer and may
9 not exceed \$1,000 for each business day after the deadline imposed
10 by this subsection that the employer fails to submit the
11 documentation of the deposits. The cumulative amount of late fees
12 assessed against an employer under this subsection may not exceed
13 \$25,000 per reporting period. The rate of interest is the rate
14 established under Section [825.313\(b\)\(1\)](#), plus two percent.
15 Interest and late fees required under this section are creditable
16 to the interest account. On request, the retirement system may
17 grant a waiver of the deadline imposed by this subsection based on
18 an employer's financial or technological resources. The retirement
19 system may establish a process for filing an appeal to reduce or
20 waive a late fee imposed under this subsection.

21 SECTION 4. Section [825.4092\(e\)](#), Government Code, is amended
22 to read as follows:

23 (e) The amounts required to be paid under Subsection
24 [~~Subsections (b) and~~] (c) are not required to be paid by a reporting
25 employer for a retiree who retired from the retirement system
26 before September 1, 2005.

27 SECTION 5. The following provisions of the Government Code

1 are repealed:

2 (1) Sections 825.408(a-1) and (a-2); and

3 (2) Sections 825.4092(b) and (d).

4 SECTION 6. The changes in law made by this Act apply
5 beginning with the 2021-2022 school year.

6 SECTION 7. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2021.